

REMARKS

This Amendment is submitted in response to the Office Action dated May 2, 2007. In the Office Action, the Patent Office objected to the specification because of informalities. Additionally, the Patent Office objected to the drawings for failing to comply with 37 C.F.R. 1.84(p)(5). The Patent Office further rejected Claims 3, 12-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Moreover, the Patent Office rejected Claims 3, 12-15 under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. Additionally, the Patent Office rejected Claim 3 under 35 U.S.C. § 102(b) as being anticipated by *Arnaud*. (U.S. Patent No.: 5,647,977). The Patent also rejected Claim 3 under 35 U.S.C. § 102(b) as being anticipated by *Clarke* (United States Patent Number: 5,840,198). Further, the Patent Office rejected Claims 4, 5, 7-11, 12 and 14 under 35 U.S.C. § 102(b) as being anticipated by *Finley et al.* (United States Patent Number: 6,313,545). Finally, the Patent Office rejected Claims 13 and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Finley et al.* in view of *Finley et al.*

By the present amendment, Applicant amends Claim 3, 4 and 14. Applicant submits that the amendments and accompanying remarks overcome the rejections and objections to the claims by the Patent Office.

The Patent Office rejected Claim 3 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Patent Office alleges that Claims 3 is unclear with respect to “water depth” and “discharge rate”. Additionally, the office states that line 2 is confusing because it calls for “one or more baffles”. Applicant respectfully submits that this is not confusing. It is specifically references in the specification that only one baffle may be used and that the exemplary embodiment is for a plurality of baffles. There is no indefiniteness here. In response to the other parts to the rejection, applicant has amended Claim 3 to more particularly point out and distinctly claim the subject matter of the invention. Applicant respectfully submits that the rejection under 35 U.S.C. § 112 has been overcome. Notice to that effect is requested.

Further, the Patent Office rejected Claim 3 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Patent Office states that the specification does not enable one skilled in the art to make and/or use the invention because it is [not] clear how to have the

“discharge rate” remain independent of the water depth. Again, applicant respectfully disagrees. A person of ordinary skill in the art would understand that the discharge rate through the outlet remains relatively steady regardless of the water depth accumulating about the structure. However, applicant has amended both claim 3 and claim 4. Applicant respectfully submits that the amendment to Claim 3 overcomes the rejection. Notice to that effect is requested.

The Patent Office rejected Claim 3 under 35 U.S.C. §102(b) as being anticipated by *Arnaud*. The Patent Office alleges that *Arnaud* discloses a flow limiting inlet structure comprising a tiered set of one or more baffles couple to an outlet. (See Fig. 11), the discharge rate through the outlet remains substantially independent of the water depth (this is considered to be true when the water depth is at or above the depth where reference character 218 is pointing). Applicant submits that the amendment to Claim 3 overcomes the rejection for the reasons that follow. Moreover, Applicant respectfully submits that the *Arnaud* patent teaches a very different apparatus and process than the present invention.

Arnaud teaches a system for removing impurities anticipated to be found in industrial waste water. The *Arnaud* system is particularly used for waste water system such as laundry or vehicle washing operation systems. The system has an aeration, mixing and flocculating mechanism, and contact media mechanisms to remove suspended solids, hydrocarbons, organic materials and undesired dissolved minerals from the treated water.

Column 10, lines 27-43 states:

“As can be seen in Figure 11, water from large tank portion will flow downwardly to sump and laminar flow will be established between a plurality of parallel-placed corrugated cones 214 to further promote additional settling of any solid particles in the water. Preferably, cones will have an angle of approximately 60 degrees and will include a number of generally radially extending corrugations... As water flows upwardly through corrugated cones 214, particles will accumulate and will move down the slope of the cone to be carried away by downwardly moving fluid in the annular area in sump surrounding the cones. The water, minus the flocculated solids, may then enter an entrance 218 of exit 220 to pass through cutoff valve 222 and conduit 92, to pass to bag filter 94.”

Amended Claim 3 of the present invention a flow limiting inlet structure that has a tiered set of one or more baffles coupled to an outlet; wherein each of the baffles has an upper edge and a lower edge. Moreover, amended Claim 3 requires an upper edge that defines a first opening and the lower edge defines a second opening and wherein each baffle is sized or configured such that a discharge rate of fluid through the outlet remains substantially autonomous of water depth about the inlet structure and wherein the discharge rate of fluid is substantially constant regardless of water depth. Additionally Claim 3 requires that a plurality of holes be provided in the structure to allow for discharge of the fluid into the outlet.

Contrary to what the Examiner believes, *Arnaud* does not teach or suggest a flow limiting inlet structure having a tiered set of one or more baffles coupled to an outlet. On the contrary, as clearly illustrated in the specification of *Arnaud* and as recited above, the *Arnaud* device uses configured cones to filter. The *Arnaud* patent does not teach or suggest a baffle device. While *Arnaud* does teach a cone having an upper edge and a lower edge, it does not teach or suggest the upper edge defining a first opening and a lower edge defining a second opening. Moreover, *Arnaud* makes no mention and does not teach and/or suggest having a baffle that is sized or configured such that a discharge rate through the outlet remains substantially autonomous of water depth about the inlet structure and further wherein a plurality of holes are provided in the structure to allow for discharge of the fluid into the outlet as required by Claim 3 of the present application.

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

In view of the foregoing remarks and amendments, the rejection of Claim 3 under 35 U.S.C. §102(b) as being anticipated by *Arnaud* has been overcome and should be withdrawn. Notice to that effect is requested.

The Patent Office further rejected Claim 3 under 35 U.S.C. §102(b) as being anticipated by Clarke. The Patent Office states that Clarke discloses a flow limiting inlet structure comprising a tiered set of one or more baffles (22) coupled to an outlet (16,44), the discharge rate through the outlet remains substantially independent of the water depth (this is considered to be true since valve dictate the discharge rate).

Again, Amended Claim 3 of the present invention a flow limiting inlet structure that has a tiered set of one or more baffles coupled to an outlet; wherein each of the baffles has a upper edge and a lower edge. Moreover, amended Claim 3 requires an upper edge that defines a first opening and the lower edge defines a second opening and wherein each baffle is sized or configured such that a discharge rate of fluid through the outlet remains substantially autonomous of water depth about the inlet structure and further wherein a plurality of holes are provided in the structure to allow for discharge of the fluid into the outlet.

Clarke teaches a separation apparatus, particularly for separating two fluids having different densities or specific gravities. The apparatus is provided with a baffle arrangement (22) located within cylindrical housing (3) comprising a plurality of conical-shaped baffles having sloping wall surfaces (24). The conical baffles may be arranged in a nested or stacked relationship or may be connected together to form a continuous helix. A convection current is set up within the apparatus such that one part of the flow is through the baffles in the direction from the base of the conical baffles to the centrally located aperture and the other part of the flow is along the interior walls of the apparatus in a gap between the peripheral edge of the base of the conical baffles and the interior wall. The material to be separated is discharged from the apparatus through a high level outlet acting as an overflow weir.

However, of interesting note is that *Clarke* does not use water depth and water passage through the baffles to determine flow rate. Rather, *Clarke* utilizes a valve system to determine flow through to the outlet. This is a completely different system than the one presented in this invention. No valve system is present. Additionally, the *Clarke* system does not have a discharge rate of fluid that is substantially constant regardless of water depth.

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

In view of the foregoing remarks and amendments, the rejection of Claim 3 under 35 U.S.C. §102(b) as being anticipated by *Clarke* has been overcome and should be withdrawn. Notice to that effect is requested.

The Patent Office rejected Claims 4, 5, 7-11, 12 and 14 under 35 U.S.C. §102(b) as being anticipated by *Finley et al.* Applicant respectfully asserts that these claims are further believed allowable over *Finley et al.* because of a previous communication with the Patent Examiner on November 3, 2005 and the indication of allowability of Claim 14 in the last Office Action.

The Patent Office asserts that *Finley et al.* discloses a flow limiting inlet structure comprising a discharge riser (this is considered member 20 which discharges fluid) surrounded by a tiered set of nested baffles 40 wherein an inlet area of the set increases as fluid depth increases.

In an communication with the Examiner on November 3, 2005 between the examiner and counsel for the applicant, Mr. Anthony King, the Examiner agreed that rejection based on *Finley et al.* would be withdrawn because the outlet as disclosed in the *Finley* device does not direct water out of the basin. On the contrary, water is introduced into the device via a down tube 22. This communication is memorialized in the applicant's last response to the Office Action dated September 21, 2005. Yet, the Examiner again made no reference to this communication and again re-asserts the same rejections that were previously presented in older Office Actions. Applicant respectfully requests that the examiner please take note of these communications and discontinue making the same rejections after he has agreed that the prior art references have been overcome.

The Patent Office states that Applicants arguments with respect to Claims 3 and 4 have been considered but are moot in view of the new grounds of rejection. However, as can be seen from the last Office Action, these are the EXACT SAME grounds of rejection. The Patent Office has not presented any evidence or made any showing that a new ground for rejection has been illustrated. As

was discussed between the applicant and the Patent Office, *Finley et al.* does not teach a device that directs water out of the basin. On the contrary, *Finley et al.* teaches introduction of water into the device via a down tube 22. These are completely different functionalities that the Examiner previously agreed to withdrawing. Yet here again, is the same rejection without any additional reasoning for the same rejections.

Applicant respectfully requests that the Patent Office reconsider its rejection and to withdraw the rejection of Claim 4 and its dependent claims. Notice to that effect is requested.

However, the applicant has also amended the Claim 4 to further distinguish the applicant's invention

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

In view of the foregoing remarks and amendments, the rejection of Claim 4, 5, and 7-11 under 35 U.S.C. §102(b) as being anticipated by *Finley et al.* has been overcome and should be withdrawn. Notice to that effect is requested.

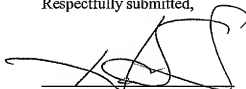
Claims 5, 7-13 depend from Claim 4. These claims are further believed allowable over *Finley et al.* for the same reasons set forth with respect to independent Claim 4 since each sets forth additional novel components and steps of Applicant's drainage management system and method.

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Request For Allowance

In view of the foregoing remarks, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hani Z. Sayed', written over a horizontal line.

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